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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/433,257	11/04/1999	YEVGENIY EUGENE SHTEYN	PHA-23.782	2314

24738 7590 03/25/2004

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EXAMINER

LIN, WEN TAI

ART UNIT	PAPER NUMBER
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2154

16

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/433,257

Applicant(s)

SHTEYN, YEVGENIY EUGENE

Examiner

Wen-Tai Lin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6, 14, 17 and 20 is/are rejected.
- 7) ☒ Claim(s) 12, 13, 15, 16, 18, 19, 21 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 2-6 and 12-22 are presented for examination.
2. The text of those sections of Title 35, USC code not included in this action can be found in the prior Office Action.

Claim Rejections - 35 USC § 102

3. Claims 4-6, 14, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohen [U.S. Pat. No. 5751968].
4. Cohen was cited in the previous office action.
5. As to claim 14, Cohen taught the invention as claimed including: a method of, at a client device, forming a media presentation from multiple related files, including a control information file [54, Fig.5; col.6, lines 26-40], stored on one or more server computers within a computer network, the method comprising:
 - downloading the control information file to the client device [56, Fig.5];
 - the client device parsing the control information file [58, Fig.5; col.6, lines 26-50; i.e., the interactive display application program must parse the connection file in order to obtain the reference for segment file and its associated status];
 - and

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- based on parsing of the control information file, the client device:
- retrieving a first file and using contents of the first file to begin a media presentation [60, Fig.5; col.6, lines 41-44];
- concurrent with the media presentation, retrieving a next file; and
- and using content of the next file to continue the media presentation [64, Fig.5; col.6, lines 44-54].

6. As to claims 4-5, Cohen further taught that the media presentation comprises an audio presentation or a video presentation [col.1, lines 49-54].

7. As to claim 6, Cohen further taught that partitioning of media presentation information between the multiple related files is described within the control information file using tags corresponding to respective files [Fig.3; col.5, lines 54-62; col.6, lines 35-50; i.e., each data file is tagged with an ID for the purpose of distinguishing one from the other in a streaming sequence].

8. As to claims 17 and 20, since the features of these claims can also be found in claims 14, they are rejected for the same reasons set forth in the rejection of claims 14 above.

Claim Rejections - 35 USC § 103

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9. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen [U.S. Pat. No. 5751968], as applied to claims 4-6, 14, 17 and 20 above, further in view of Lin et al.(hereafter "Lin")[U.S. Pat. No. 6405256].

10. Both Cohen and Lin were cited in the previous office action.

11. As to claim 2, Cohen did not teach that partitioning of media presentation information between the multiple related files is determined by information about the client. Specifically, Cohen did not teach partitioning the data to be transferred to the client based on the buffering/display/processing capability of the client (i.e., media information such as video/audio data is known to be large in size and a client's device may not be able to handle a large chunk of data during a fixed interval of time).

However, Lin teaches a data streaming method/system wherein partitioning of streamed data is based on the buffering capability of the client device [Lin: col.6, lines 47-50]. It would have been obvious to one of ordinary skill in the art at the time the invention was made that Cohen's data file size should be a factor of the client's buffering and display capability because this criterion makes sure that data streaming in Cohen's media presentation can be achieved without overflowing the client's buffering capacity [col.5, lines 39-53].

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12. As to claim 3, Cohen does not specifically teach that partitioning of media presentation information between the multiple related files is determined by information about the computer network.

However, Lin teaches a network comprising a plurality of caching servers, each with expandable buffer for storing additional segments of streamed data for absorbing network congestion [Abstract]. Since the caching servers and the network congestion are part of the network information, it is obvious that the data segmentation in Cohen's network, which obviously comprises a plurality of communication nodes, should also be based on the network's buffering capability in each intermediate network node, because by doing so one would be able to anticipate Cohen system's tolerance against traffic fluctuation.

13. Claims 12-13, 15-16, 18-19 and 21-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Applicant's arguments with respect to claims 2-6, 14, 17 and 20 have been considered but they are not deemed to be persuasive.

Specifically, Applicant argues that Cohen does not teach parsing the connection file because the media player know a priori the format of the connection file, which therefore need not be parsed.

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15. The examiner respectfully disagrees. With regard to parsing the control information file, the rejection in the previous office action states in part (note that Applicant's cited text in the Remarks appears to have been excerpted from an earlier version of the office action):

Cohen taught the invention as claimed including ... the client device parsing the control information file [58, Fig.5; col.6, lines 26-40; i.e., the interactive display application program must parse the connection file in order to obtain the reference for segment file and its associated status] ...

Due to the fact that information regarding the status of the files is rather dynamic (especially in real time presentation – see col.6, lines 41-50), the connection file is updated at the web site to include the status of all the files currently in the distribution unit (see col.6, lines 35-37). As such, it is asserted that Cohen's interactive display application must have used a parser to syntactically analyze the constantly updated connection file, so as to extract the dynamic status information therein.

16. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

17. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (703)305-4875. The examiner can normally be reached on Monday-Friday(8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Follansbee can be reached on (703)305-8498. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)746-7239 for official communications; and

(703)746-5516 for status inquiries draft communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Wen-Tai Lin

March 19, 2004

Wen-Tai Lin
3/19/04